

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room      5A**

9:30 AM

**8:06-10373    Jay Johnson**

**Chapter 7**

Adv#: 8:17-01081      Johnson et al v. Gonzalez et al

**#1.00    STATUS CONFERENCE RE: Complaint for Wrongful Use of Civil Proceedings  
(Malicious Prosecution)**

Docket      1

**\*\*\* VACATED \*\*\*    REASON: OFF CALENDAR: Notice of Voluntary  
Dismissal of an Adversary Proceeding that Does Not Involve Claims Under  
11 U.S.C. §727 filed 5/25/2017; No Answer Filed**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary  
Proceeding that Does Not Involve Claims Under 11 U.S.C. §727 filed  
5/25/2017; No Answer Filed - td (5/25/2017)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jay Johnson

Represented By  
David M Reeder  
James Andrew Hinds Jr  
Paul R Shankman  
Burton V McCullough

**Defendant(s):**

Hinds & Shankman, LLP

Pro Se

Richard A. Lapides

Pro Se

Rosendo Gonzalez

Pro Se

James A Hinds Jr.

Pro Se

**Joint Debtor(s):**

Debra Johnson

Represented By  
David M Reeder

**United States Bankruptcy Court  
Central District of California  
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**CONT...**

**Jay Johnson**

**Chapter 7**

James Andrew Hinds Jr  
Paul R Shankman  
Burton V McCullough

**Plaintiff(s):**

Robin L Johnson

Represented By  
Burton V McCullough

JJ&A Architects, Inc.

Represented By  
Burton V McCullough

Q Financial Group, LLC

Represented By  
Burton V McCullough

Randal A Johnson

Represented By  
Burton V McCullough

Jay W Johnson

Represented By  
Burton V McCullough

Debra F Johnson

Represented By  
Burton V McCullough

Jay Johnson A.I.A. and Associates,

Represented By  
Burton V McCullough

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
James Andrew Hinds Jr  
Paul R Shankman  
Cristina F Keith

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Hearing Room      5A**

9:30 AM

**8:15-10771    Nga Phan**

**Chapter 7**

Adv#: 8:15-01263      VO v. Phan et al

**#2.00**    CON'TD STATUS CONFERENCE RE: Complaint Objecting to Dischargeability  
of Debt 11 USC Sections 523(a)(2), 523(a)(6)  
(As to Nga Phan Only)

FR: 5-12-16; 11-10-16; 1-19-17; 3-9-17; 5-11-17; 6-15-17

Docket      1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 12, 2016 [This tentative ruling has been updated since its original  
posting on 5/6/16]**

Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure  
to timely file a status report.

Re Defendant's "Opposition to Motion of Reinstating Adversary Case": This  
opposition is untimely and will not be considered by the court as the order  
granting the motion to reinstate the case was entered on March 23, 2016.  
Defendant's late opposition cannot be deemed a motion for reconsideration  
as it was not properly filed as such and has no substantive argument or  
evidence. In addition, to date, Defendant has failed to file an answer to the  
complaint by April 15, 2016 as required by the March 23, 2016 order.

Final Deadline for Debtor to file Answer:	June 10, 2016
Discovery Cut-off Date:	Aug. 18, 2016
Deadline to Attend <u>Mandatory</u> Mediation:	Sept. 30, 2016
Pretrial Conference Date:	Nov. 10, 2016 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Oct. 27, 2016

***Note: If all parties agree with the foregoing schedule, appearances at***

**United States Bankruptcy Court  
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CONT... Nga Phan

Chapter 7

***today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**November 10, 2016**

No answer filed by Defendant by the June 10, 2016 deadline ordered by the court. Plaintiff to appear and advise the court whether a motion for default judgment will be forthcoming.

***Note: Appearance at this hearing is required.***

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**January 17, 2017**

No updated status report was timely filed -- impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to do so.

Appearance at this hearing is required.

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**March 9, 2017**

Plaintiff to appear and advise the court of any developments in the case since the updated status report was filed.

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**May 11, 2017**

Updated status report not filed; motion for default judgment not filed as of 5/5/17.

Court to issue second OSC why this adversary should not be dismissed.

***Note: Appearance at this hearing is required.***

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**June 15, 2017**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**CONT...**

**Nga Phan**

**Chapter 7**

Motion for default judgment filed on 5/10/17 does not comply with LBR 9013-1(o)(1)(A) re notice of opportunity to file opposition. Continue one final time to August 3, 2017 at 9:30 a.m. If the Motion for Default Judgment is not approved by such date, the adversary proceeding will be dismissed for failure to prosecute. (XX)

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required and Plaintiff shall serve notice of the continued hearing date/time.***

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**August 3, 2017**

Take matter off calendar if the Motion for Default Judgment is granted prior to the hearing.

<b>Party Information</b>
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**Attorney(s):**

David B Lally

Represented By

David Brian Lally

**Debtor(s):**

Nga Phan

Represented By

Parisa Fishback

**Defendant(s):**

Sony Dao

Pro Se

Nga Phan

Pro Se

**Plaintiff(s):**

LISA VO

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**CONT... Nga Phan**

**Chapter 7**

Yen Nguyen  
Fritz J Firman

**Trustee(s):**

Jeffrey I Golden (TR) Pro Se

Jeffrey I Golden (TR) Pro Se

**U.S. Trustee(s):**

United States Trustee (SA) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

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9:30 AM

**8:16-10031 Robert Carlile, Jr**

**Chapter 7**

Adv#: 8:16-01106 R Prasad Industries v. Carlile Jr

**#3.00** STATUS CONFERENCE RE: Plaintiff's First Amended Complaint For:  
NonDischarability Of Debt Pursuant To Sections 523 and 727 Of The  
Bankruptcy Code  
(another summons issued 5-18-17)

Docket 40

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to timely file a joint status report.

Discovery Cut-off Date:	Oct. 6, 2017
Pretrial Conference Date:	Nov. 30, 2017 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Nov. 16, 2017

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Robert Carlile Jr

Represented By  
Dana M Douglas

**Defendant(s):**

Robert Carlile Jr

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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9:30 AM

**CONT...**

**Robert Carlile, Jr**

Dana M Douglas

**Chapter 7**

**Plaintiff(s):**

R Prasad Industries

Represented By  
F Thomas Hovore

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

9:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#4.00**    PRE-TRIAL CONFERENCE RE: Complaint: 1) To Determine Dischargeability of Debt Pursuant to 11 USC Section 523(a)(2)(A); and 2) To Determine Dischargeability of Debt Pursuant to 11 USC Section 523(a)(4)

FR: 2-2-17

Docket      1

**\*\*\* VACATED \*\*\*    REASON: CONTINUED TO 11/9/17 AT 9:30 A.M.,  
PER ORDER ENTERED 6/8/17 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 11/9/17 at 9:30 a.m., Per  
Order Entered 6/8/17 (XX) - td (6/8/2017)**

**Tentative Ruling:**

**February 2, 2017**

Discovery Cut-off Date:	Jun. 30, 2017
Pretrial Conference Date:	Aug. 3, 2017 at 9:30
a.m.	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	Jul. 20, 2017

*Special Note: Although the court is not requiring the parties to attend mediation, the court encourages the parties to consider mediation as an opportunity to reach resolution of this matter.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

<b>Party Information</b>
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

9:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

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**5A**

9:30 AM

**8:16-11939 Richard James Young**

**Chapter 7**

Adv#: 8:17-01047 Young v. CACH, LLC

**#5.00** Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismissed for Lack of Prosecution (OSC ISSUED 6/15/17)

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Adversary filed 7/27/17**

**Courtroom Deputy:**

**OFF CALENDAR: NOTICE OF VOLUNTARY DISMISSAL FILED BY PLAINTIFF ON JULY 27, 2017 -- eas**

**Tentative Ruling:**

**August 3, 2017**

Vacate OSC as moot -- plaintiff filed voluntary dismissal on July 27, 2017.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Richard James Young

Represented By  
Anerio V Altman

**Defendant(s):**

CACH, LLC

Pro Se

**Plaintiff(s):**

Richard James Young

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room      5A**

9:30 AM

**8:16-11939    Richard James Young**

**Chapter 7**

Adv#: 8:17-01047      Young v. CACH, LLC

**#6.00**    CON'TD STATUS CONFERENCE RE: Complaint for: 1) Avoidance of a Pre-Petition Transfer; 2) Turnover of Personal Property; and 3) Violation of the Automatic Stay

FR: 6-15-17

Docket      1

**\*\*\* VACATED \*\*\*    REASON: OFF CALENDAR: Notice of Voluntary  
Dismissal of Adversary filed 7/27/17**

**Courtroom Deputy:**

**OFF CALENDAR: NOTICE OF VOLUNTARY DISMISSAL FILED BY  
PLAINTIFF ON JULY 27, 2017 -- eas**

**Tentative Ruling:**

**June 15, 2017**

Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to timely file a status report or to file proof of service re summons and complaint. Continue hearing to August 3, 2017 at 9:30 a.m. ; Court to issue order to show cause why the adversary should not be dismissed for failure to prosecute -- hearing re the same to be held August 3, 2017 at 9:30 a.m. (XX)

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required and Plaintiff shall serve notice of the continued hearing date/time.***

<b>Party Information</b>
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**Debtor(s):**

Richard James Young

Represented By  
Anerio V Altman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

9:30 AM

**CONT... Richard James Young**

**Chapter 7**

**Defendant(s):**

CACH, LLC

Pro Se

**Plaintiff(s):**

Richard James Young

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

9:30 AM

**8:16-14111 Justin Adam Moreno**

**Chapter 7**

Adv#: 8:16-01218 Moreno v. Navient

**#7.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of  
Debt - Student Loan**

FR: 12-22-16; 1-19-17

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/2/17 AT 9:30 A.M.,  
PER ORDER ENTERED 6/27/17 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-Trial Conference Continued to 11/2/17 at 9:30 a.m., Per  
Order Entered 6/27/17 (XX) - td (6/27/2017)**

**Tentative Ruling:**

**January 19, 2017**

Discovery Cut-off Date:	May 26, 2017
Pretrial Conference Date:	July 13, 2017 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	June 29, 2017

***Note: If all parties agree with the foregoing schedule, appearances at  
today's hearing are waived and Plaintiff shall serve/lodge a scheduling  
order consistent with the same.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Justin Adam Moreno

Pro Se

**Defendant(s):**

Navient

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

9:30 AM

**CONT... Justin Adam Moreno**

**Chapter 7**

**Plaintiff(s):**

Justin Adam Moreno

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-10019 Mac Thi Nguyen**

**Chapter 13**

**#0.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Mac Thi Nguyen

Represented By  
Christopher J Langley

**Movant(s):**

U.S. BANK NATIONAL

Represented By  
Daniel K Fujimoto

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 03, 2017

Hearing Room

5A

10:00 AM

8:12-20630 Scott Bryan Sornbutnark

Chapter 13

#8.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

FR: 7-13-17

Docket 44

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal  
of Movant's Motion filed 7/18/2017

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Movant's Motion filed  
7/18/2017 - td (7/18/2017)

Tentative Ruling:

July 13, 2017

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information
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Debtor(s):

Scott Bryan Sornbutnark

Represented By  
John D Sarai

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room 5A**

10:00 AM

**CONT... Scott Bryan Sornbutnark**

**Chapter 13**

**Movant(s):**

Wells Fargo Bank, N.A.

Represented By  
Kristin A Zilberstein

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:14-12624 Jimmy DeAnda**

**Chapter 13**

**#9.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTOR

FR: 4-20-17; 6-1-17; 7-13-17

Docket 77

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 20, 2017**

Grant with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing,

It is not clear from Debtor's opposition that Debtor is in fact current as Debtor merely attached a hodgepodge of documents with no analysis or chart showing that all payments have been made.

Special Note: If Movant is agreeable to a continuance to reconcile payments, the available continued dates are May 18, 2017, June 1, 2017 and June 15, 2017 at 10:00 a.m. A date may be communicated to the court clerk at the time of the tentative ruling calendar call.

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**June 1, 2017**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**CONT... Jimmy DeAnda**

**Chapter 13**

Movant to advise the court re the status of this matter.

***Note: Appearance at this hearing is required.***

**July 13, 2017**

Movant to appear and advise the court re the status of this matter.

**August 3, 2017**

Movant to appear and advise the court re the status of this matter. However, if an agreed APO or stipulation is submitted prior to the hearing, appearances at this hearing will not be required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jimmy DeAnda

Represented By  
Michael E Hickey

**Movant(s):**

U.S. BANK NATIONAL

Represented By  
Gilbert R Yabes

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:14-12895    Brian Keith Bootow and Rachelle Lynne Bootow**

**Chapter 13**

**#10.00    CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]**

DITECH FINANCIAL LLC

VS.

DEBTORS; AND AMRANE COHEN, CHAPTER 13 TRUSTEE

FR: 7-13-17

Docket        58

**Courtroom Deputy:**

**OFF CALENDAR: STIPUATION RE ADEQUATE PROTECTION ORDER  
FILED 7/27/17 -- eas**

**Tentative Ruling:**

**July 13, 2017**

If Debtors are current by the time of the hearing, grant standard adequate protection order.

"Standard APO" = Three 10-day notices of default, declaration of nonpayment if no cure; no notice 10-day notice required for 4th default.

<b>Party Information</b>
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**Debtor(s):**

Brian Keith Bootow

Represented By  
Jeffrey N Wishman

**Joint Debtor(s):**

Rachelle Lynne Bootow

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**CONT...**

**Brian Keith Bootow and Rachelle Lynne Bootow**

Jeffrey N Wishman

**Chapter 13**

**Movant(s):**

Ditech Financial LLC, its assignees

Represented By

Kristin A Zilberstein

Kelly M Raftery

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 03, 2017

Hearing Room

5A

10:00 AM

8:15-13261 Bruce R Fink

Chapter 13

#11.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

EVGENIA GENNADIA

VS.

DEBTOR

Docket 74

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver. Deny request for annulment and and other prospective relief (relief request #s 6 and 7).

Motion states no grounds for annulment or prospective relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Bruce R Fink

Pro Se

**Movant(s):**

Evgenia Gennadia

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**CONT...**

**Bruce R Fink**

Fari B Nejadpour

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-10702 John Joseph Stoffel and April Dawn Stoffel**

**Chapter 13**

**#12.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTORS

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
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**Debtor(s):**

John Joseph Stoffel

Represented By

Thomas E Brownfield

**Joint Debtor(s):**

April Dawn Stoffel

Represented By

Thomas E Brownfield

**Movant(s):**

Wells Fargo Bank, N.A.

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room 5A**

10:00 AM

**CONT... John Joseph Stoffel and April Dawn Stoffel  
Darlene C Vigil**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-11277 Joseph Anthony Martinez**

**Chapter 7**

**#13.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

PROF-2013-S3 LEGAL TITLE TRUST IV

VS.

DEBTOR

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver and 362(d)(4) relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
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**Debtor(s):**

Joseph Anthony Martinez

Represented By  
Lionel E Giron

**Movant(s):**

PROF-2013-S3 Legal Title Trust IV,

Represented By  
Nichole Glowin

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

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**5A**

10:00 AM

**CONT...**

**Joseph Anthony Martinez**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-11716    Brett John Kacura and Denise Marie Kacura**

**Chapter 7**

**#14.00**    CON'TD Hearing RE: Motion in Individual Case for Order Confirming Termination of Stay under 11 U.S.C. 362(j) or That No Stay is in Effect under 11 U.S.C. 362(c)(4)(A)(ii)

BAI LIMITED

VS.

DEBTORS

FR: 7-11-17

Docket        15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 11, 2017**

Continue hearing to August 3, 2017 at 10:00 a.m. to allow Movant to correct service issue -- Debtor was not served with the Motion. Motion must be served no later than July 13, 2017. (XX)

Tentative ruling for 8/3/17 hearing: Grant (no stay in effect)

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.***

-----

**August 3, 2017**

Grant with 4001(a)(3) waiver. No stay in effect.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room 5A**

10:00 AM

**CONT... Brett John Kacura and Denise Marie Kacura**

**Chapter 7**

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Brett John Kacura

Represented By  
Jeffrey G Jacobs

**Joint Debtor(s):**

Denise Marie Kacura

Represented By  
Jeffrey G Jacobs

**Movant(s):**

BAI LIMITED

Represented By  
Steven P Chang

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-11818 Saman Jandarian**

**Chapter 7**

**#15.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

NISSAN-INFINITI LT

VS.

DEBTOR

(Advanced from 8-8-17)

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Saman Jandarian

Pro Se

**Movant(s):**

NISSAN-INFINITI LT.

Represented By  
Michael D Vanlochem

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

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**5A**

10:00 AM

**CONT... Saman Jandarian**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-11895 Damian Robert Kutzner**

**Chapter 11**

**#16.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

BAYVIEW LOAN SERVICING, LLC

VS.

DEBTOR

FR: 7-11-17

Docket 61

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 11, 2017**

Continue hearing to August 3, 2017 at 10:00 a.m. to allow Movant to correct service issue: not all of the 20 largest unsecured creditors were served. Service to be effected by July 13, 2017. (XX)

Tentative ruling for 8/3/17 hearing (if unopposed): Grant with 4001(a)(3) waiver and 362(d)(4) relief, as well as a finding that, pursuant to 362(c)(3), the automatic stay has expired as a matter of law.

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.***

-----

**August 3, 2017**

Grant with 4001(a)(3) waiver and 362(d)(4) relief, except no foreclosure sale

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10:00 AM

**CONT... Damian Robert Kutzner**

**Chapter 11**

prior to December 8, 2017 unless the chapter 7 trustee stipulates to earlier foreclosure date.

This case recently converted to chapter 7 and is pending appointment of a chapter 7 trustee. Because of the admitted equity in the property, the trustee should be allowed an opportunity to consider selling the property for the benefit of the estate and its other creditors.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required if Movant accepts the foregoing tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Damian Robert Kutzner

Represented By  
Peter L Nisson

**Movant(s):**

BAYVIEW LOAN SERVICING,

Represented By  
Edward G Schloss

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-12566 Alessa Bianca Estor**

**Chapter 7**

**#17.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
AMERICAN HONDA FINANCE CORPORATION  
VS.  
DEBTOR; AND RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Alessa Bianca Estor

Represented By  
Gary M Polston

**Movant(s):**

AMERICAN HONDA FINANCE

Represented By  
Vincent V Frounjan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**CONT... Alessa Bianca Estor**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-12571 Jorge Armando Ortega and Rebecca Ann Bennett**

**Chapter 7**

**#18.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
PACIFICA GARDEN APTS., LP  
VS.  
DEBTORS

Docket 10

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 7/17/2017**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 7/17/2017 - td (7/17/2017)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jorge Armando Ortega	Pro Se
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**Joint Debtor(s):**

Rebecca Ann Bennett	Pro Se
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**Movant(s):**

Pacifica Garden Apts., LP	Represented By Scott Andrews
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-12697 Carol Lang**

**Chapter 7**

**#19.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
BIRCHWOOD VILLAGE, A LIMITED PARTNERSHIP  
VS.  
DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Carol Lang

Pro Se

**Movant(s):**

Birchwood Village, A Limited

Represented By  
Scott Andrews

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

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**5A**

10:00 AM

**CONT... Carol Lang**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-12484 Hung Quoc Vu**

**Chapter 13**

**#20.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Deny motion.

Basis for Tentative Ruling:

Too many things don't add up in this case re good faith:

1. While it appears evident that Nick Nguyen appears to be operating a loan modification scam, the court is not convinced of Debtor's noncomplicity in the same. In short, the Motion fails to rebut the presumption of bad faith.

2. Case #16-13997ES filed Sept. 23, 2016. Debtor claims he did not sign the petition and had no knowledge of the filing of this bankruptcy case. Decl. of Vu, p.1, para.13. However, there is no evidence that anyone other than Debtor filed this petition. Had Nick Nguyen or any other person filed it, the internal court docket would reflect the identification used by such person. No such ID is noted on the court's internal records. Even if Debtor did not sign or file the petition, Debtor was in fact notified in writing by the court of the bankruptcy filing in his name shortly after the filing. The Notice of Bankruptcy Filing was mailed to Debtor on September 25, 2017. See Docket #4. In addition, Debtor was also served with a Notice of Non-Entitlement to Discharge at his residence by the Court on September 26, 2017. See Docket #s 7 and 9. In October, 2016, Debtor was also served with the chapter 13 trustee's report and notice of the dismissal of the case. See Docket #s 11,



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**CONT...**

**Hung Quoc Vu**

**Chapter 13**

13, 15. All of the aforementioned documents were served by mail to Debtor at his residential address of record.

3. Case #16-13933 filed Dec. 2, 2016. Court records reflect that this petition was physically filed by Nick Nguyen as Mr. Nguyen's identification appears on the court's internal court records. However, as with the prior bankruptcy case, Debtor was served by mail at his residential address with several court notice, including a) Notice of the Bankruptcy Filing, Docket #4, b) order notifying Debtor of missing commencement documents and intent to dismiss the case, Docket #6, 3) renote of confirmation hearing, Docket #9, and 4) notice and order dismissing the bankruptcy case, Docket #s 10 and 11. All of these court notices/orders were served on Debtor in December 2016 at his residential address of record.

4. Debtor presents text messages between he and Mr. Nguyen that indicate he was aware of Mr. Nguyen's intent to add a third person to Debtor's property to place that third person into bankruptcy to stop the foreclosure:

"Nguyen: I need to put extra person on title tonight so I can do a bankruptcy for that person, once the auction cancel, I will remove that person to be safe.

Debtor: It doesn't look good! ?????

Nguyen: It's safe. I do this for 2 property already . . . you have to trust me on this.. Notary come over between 6-7 pm

Debtor: OK"

Motion, Exh. B, pp. 21-22

After Michele Le was added to the property title, two bankruptcies were filed in her name and both filings delayed the foreclosure.

5. Debtor doesn't explain that two chapter 13 cases filed by his spouse Chi Nguyen -- Case #s 17-10044 filed Jan. 6, 2017 and dismissed on Jan. 24, 2017 and 17-10493 filed Feb. 9, 2017 and dismissed Feb. 27, 2017. Both

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**CONT... Hung Quoc Vu**

**Chapter 13**

were dismissed for failure to file commencement documents and both delayed the foreclosure of the property. Internal court records reflect that Chi Nguyen filed these petitions herself. Even if she didn't, she was served with all court notices at Debtor's residential property of record.

6. Debtor did not list either of his spouse's prior bankruptcy cases on the bankruptcy schedules filed in this case. See Statement of Related Cases, para. 1 -- nothing listed for prior cases filed by spouse.

7. Debtor took no action regarding the prior two chapter 13 cases he claims he did not file until June 2017, even though he was served with several notices regarding both cases in October and December 2016. Both bankruptcies benefitted Debtor by delaying the foreclosure.

8. According to the lender, arrearages exceed \$53,000. See Opposition to Motion [Docket #29], Exh. 3, page 36 of 90. Debtor's chapter 13 plan only provides for payment of \$38,000 using all of Debtor's disposable net income of \$744.68. Debtor's net income is insufficient to pay \$53,000 -- plan payments of at least \$833.00 would be required.

The court notes parenthetically that the property was sold to a third party purchaser. Assuming the third party is a bona fide purchaser, Debtor has not explained how title can legally be restored to him. Absent restoration of title, there is no point to a chapter plan as there is no debt to be repaid.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Hung Quoc Vu

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Hung Quoc Vu

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:00 AM

**8:17-12734 Allen A Rahmani and Monir Rahmani**

**Chapter 13**

**#21.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Deny motion.

Case not filed in good faith -- Disposable income of \$3970 (Schedule J) is insufficient on its faith to fund plan payments of \$4,431.31. The court notes that Schedule I includes nothing for income taxes.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Allen A Rahmani

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Monir Rahmani

Represented By  
Christopher J Langley

**Movant(s):**

Monir Rahmani

Represented By  
Christopher J Langley

Allen A Rahmani

Represented By  
Christopher J Langley

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room 5A**

10:00 AM

**CONT... Allen A Rahmani and Monir Rahmani**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:14-10918 Robert Boyajian**

**Chapter 11**

Adv#: 8:16-01012 Boyajian et al v. Ordoubadi et al

**#22.00** STATUS CONFERENCE Hearing RE: Shahrokh Shawn Ordoubadi and Raham Honeya Ordoubadi's Amended Motion to Dismiss Adversary Proceeding Pursuant to Fed.R.Civ.Proc. 12(b)(1)

FR: 7-11-17

Docket 73

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE IS VACATED;  
MATTER IS CONTINUED TO 9/21/17 AT 2:00 P.M. FOR HEARING, PER  
ORDER ENTERED 7/27/17 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference RE: Hearing is Vacated; Matter is  
Continued to 9/21/17 at 2:00 p.m. for Hearing, Per Order Entered 7/27/17  
(XX) - adm/td (8/1/2017)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Robert Boyajian

Represented By  
Michael G Spector  
Vicki L Schennum

**Defendant(s):**

Shahrokh Shawn Ordoubadi

Represented By  
Nicholas W Gebelt

Raham Honeya Ordoubadi

Represented By  
Nicholas W Gebelt

**Plaintiff(s):**

Mayor Dune, Inc.

Represented By  
Alan G Tippie

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

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10:30 AM

**CONT... Robert Boyajian**

**Chapter 11**

Robert Boyajian

Robert Boyajian

Represented By  
Steven Werth  
Michael G Spector

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room      5A**

10:30 AM

**8:15-12828    Zeena Sheriff Jackson**

**Chapter 7**

**#23.00    Hearing RE: U.S. Trustee's Motion for Denial of Discharge Pursuant to 11  
U.S.C. Section 727(a)(8)**

Docket      44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Zeena Sheriff Jackson

Represented By  
Amid Bahadori

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room      5A**

10:30 AM

**8:15-12828    Zeena Sheriff Jackson**

**Chapter 7**

**#24.00**    Hearing RE: Motion by United States Trustee to Determine Whether Compensation Paid to Counsel Was Excessive Under 11 U.S.C. Section 329 and F.R.B.P. 2017

Docket      45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Deny motion.

Basis for Tentative Ruling:

1. Counsel appears to have provided all services required under the RARA. In fact, the amount charged, \$3,000, is substantially less than the maximum no-look fee for an individual non-business case.
2. The chapter 13 plan was confirmed in a timely fashion.
3. The chapter 13 case proceeded uneventfully for nearly two years until Debtor became delinquent in plan payments.
4. While the conversion to chapter 7 obviously could not result in a discharge, the court cannot find that Debtor failed to receive the services he bargained for in the RARA based on the evidence presented.
5. According to Debtor's SOFA, Debtor was the subject of a wage garnishment at the time of the filing -- this could certainly explain the chapter 13 filing and provide a valuable benefit to Debtor. Presumably, Debtor has enjoyed not having his wages garnished for more than two years during the pendency of the case. Converting rather than dismissing the case appears to



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Santa Ana  
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**CONT... Zeena Sheriff Jackson**

**Chapter 7**

have afforded Debtor more time in this regard (no relief from stay motions filed in the case).

Based upon all of the foregoing, the court cannot find that the fees in this case were excessive.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Zeena Sheriff Jackson

Represented By  
Amid Bahadori

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
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Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-10335 George C. Koottarappallil**

**Chapter 7**

**#25.00** Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

Docket 74

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

George C. Koottarappallil

Represented By  
Darren G Smith

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-10335 George C. Koottarappallil**

**Chapter 7**

**#26.00** Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses from September 6, 2016 Through May 10, 2017

**[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]**

Docket 69

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

George C. Koottarappallil

Represented By  
Darren G Smith

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, August 03, 2017**

**Hearing Room 5A**

10:30 AM

**8:16-13227 William Bilderback and Jonelle Sellers**

**Chapter 7**

**#27.00** Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. Section 363(b) and (F); (2) Approving Overbid Procedures; (3) Approving Buyers, Successful Bidder, and Back-up Bidder as Good-Faith Purchaser Pursuant to 11 U.S.C. Section 363(m); (4) Authorizing Payment of Undisputed Liens, Real Estate Broker's Commission, Debtors' Exemption and Other Ordinary Costs of Sale

Docket 31

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant subject to overbid and subject to the following comments of court:

1. Motion requests that the court approve the Purchase Agreement "attached as Exhibit 4." However, the Purchase Agreement is not attached as Exhibit 4 or any other Exhibit.
2. The purchase price is not clear. The Motion and Notice say \$590,000; declaration of Mr. Bingham says \$690,000. See Motion at p. 16:17-22.
3. The current amount of the lien is not clearly stated. The title report lists the *original* principal amount of \$430,000. The trustee should be able to provide a ballpark amount.
4. The trustee proposes to pay Home123 -- however, according to the Conditional Non-Opposition filed by Ocwen as servicer to Deutsch Bank, Home123 is no longer the secured creditor. Docket #39, p. 1.
5. The Declaration of Jeffrey Golden indicates that the signed version is "to

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10:30 AM

**CONT...**      **William Bilderback and Jonelle Sellers**  
follow." As of 7/29/17, it has not been filed.

**Chapter 7**

6. The court notes parenthetically that the summary of the title report in the Motion (p.4) does not match the actual report. See Exh 3 at bate-stamped page 27.

If there are overbids, auction will take place outside the courtroom.

<b>Party Information</b>
--------------------------

**Debtor(s):**

William Bilderback

Represented By  
Arlene M Tokarz

**Joint Debtor(s):**

Jonelle Sellers

Represented By  
Arlene M Tokarz

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-13916 Thomas J Smith, III**

**Chapter 7**

**#28.00** Hearing RE: Objection of Debtor Thomas J. Smith, III to Proof of Claim #1 filed by Kimberly Amaral, Casey Swindell and Patrick Swindell in the Sum of \$350,000.00

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Overrule objection.

Basis for Tentative Ruling

The substantive issues raised in the Objection eclipse issues to be addressed and/or determined in the pending nondischargeability action brought by Claimants (Adv. No. 16-01269). Debtor cannot do an end run around the adversary proceeding by filing a claims objection covering the same issues. The court, therefore, declines to address the merits of any of the substantive factual or legal issues raised therein.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Thomas J Smith III

Represented By  
Michael Worthington

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Thomas H Casey

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-14090 Sean Chase Kenyon and Rachelle Renee Kenyon**

**Chapter 7**

**#29.00** Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Sean Chase Kenyon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rachelle Renee Kenyon

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-14201 Edward Mark Bobinski**

**Chapter 7**

**#30.00** Hearing RE: Debtor's Objection to Creditor Radian Properties' Proof of Claim (Claim #2)

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Overrule objection based on the opposition filed by Claimaint, which the court incorporates herein by reference.

By way of background, on October 11, 2016, Edward Mark Bobinski ("Debtor") filed a voluntary Chapter 7 petition. On April 28, 2017, Radiant Properties LLC ("Creditor") filed a Proof of Claim in number 2 ("POC #2") asserting a general unsecured claim for breach of a commercial lease in the amount of \$ 68,433.34.

Prepetition, on August 24, 2016 Creditor filed a breach of the commercial lease action against Debtor in the Orange County Superior Court under Case No. 30-2016-00871244 (the "State Court Action"). Opp., Rossman Decl., ¶ 5. The State Court Action was stayed due to Debtor's bankruptcy. Up to date, no parties have stipulated or filed a motion for relief from automatic stay to allow the State Court Action to be completed. On June 17, 2017, Debtor filed the Objection to dispute the entirety of POC #2. Debtor argues that POC #2 is unenforceable under California state law because Creditor, as a landlord, breached the lease or frustrated the contract and rendered it commercially impractical through Creditor's construction during June and July.

Section 3007-1 of Local Bankruptcy Rules and Section 502 of Bankruptcy Code govern an objection to claim. The court examines the



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**Chapter 7**

following issues in sequence: (1) whether a creditor filed a valid proof of claim; (2) whether a debtor's objection is supported by sufficient evidence to overcome a valid proof of claim per section 3007-1 of Local Bankruptcy Rules; and (3) whether a creditor's claim could be disallowed to the extent that it is unenforceable under the applicable law per section 502 of Bankruptcy Code. In addition, the attorney's fees are another issue since both parties request reasonable attorney's fees.

When a creditor files a proof of claim, Creditor shall attach a copy of the writing to the proof of claim if the claim is based on a writing. Fed. R. Bankr. P. §3001(c)(1). A proof of claim executed and filed in accordance with Rule 3001 constitutes prima facie evidence of the validity and amount of the claim. See Rule 3001(f); *In re Lundell*, 223 F.3d 1035, 1039 (9th Cir. 2000).

Here, POC #2 should be proper and valid under Rule 3001(c)(1). POC #2 is based on a breach of a commercial lease between Debtor (tenant) and Creditor (landlord). Creditor attached to the proof of claim the following documents: (1) damages worksheet, (2) a commercial leased agreement dated July 1, 2015; (3) a commercial lease agreement dated November 15, 2016; and (4) Creditor's attorney's fees and costs. As a result, Creditor complies with Rule 3001(c)(1). Therefore, POC #2 constitutes prima facie evidence of the validity and amount of the claim. See Fed. R. Bankr. P. § 3001(f).

Pursuant to LBR 3007-1(c)(1), an objection to claim must be supported by sufficient evidence to overcome the prima facie effect of a properly documented proof of claim. In particular, the evidence must demonstrate that the proof of claim should be disallowed. A proof of claim executed and filed in accordance with the Federal Rules of Bankruptcy Procedure 3001(f) constitutes *prima facie* evidence of the validity and amount of the claim. See Rule 3001(f); *In re Lundell*, 223 F.3d 1035, 1039 (9th Cir. 2000). Therefore, a proof of claim will be deemed allowed unless a party in interest objects. *Lundell*, 223 F.3d at 1039. Once a party in interest objects, the proof of claim will still provide some evidence as to its validity and amount, and will be strong enough to carry over a mere formal objection without more. *Id.* Thus, a party

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**CONT... Edward Mark Bobinski**

**Chapter 7**

objecting to a claim must present affirmative evidence to overcome the presumption of its validity by showing "facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claims." *Id.* (citing *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991); *In re King Street Inv., Inc.*, 219 B.R. 848, 858 (BAP 9th Cir. 1998). If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, then the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *Lundell*, 223 F.3d at 1039. The ultimate burden of persuasion remains at all times upon the claimant. *Id.*; *Holm*, 931 F.2d 620 (9th Cir. 1991).

Here, the Opposition argues that Debtor failed to present sufficient evidence to rebut the prima facie validity of Creditor's POC #2. Opp., pp. 5-6. The court agrees. Debtor bears the burden to present affirmative evidence to show that POC #2 is unenforceable under California state law. Specifically, Debtor argues that Creditor breached the lease or frustrated the contract and rendered it commercially impractical through Creditor's construction during June and July. Obj., p. 4:18-20. The only evidence Debtor attached to the Objection is his own declaration. Debtor offered no further evidentiary facts to substantiate Debtor's statements in the declaration. In particular, Debtor stated in his declaration that Creditor's construction ruined his summer season and caused business loss. Obj., Bobinski Decl., ¶ 10. However, Debtor offered no sale records or financial reports to show how much business loss he suffered and how Creditor's construction caused the loss.

On the other hand, the Opposition attests that proper canopy scaffolding was installed in front of Debtor's store to allow customers and pedestrians to enter and exit easily with no obstructions to his store. Opp., Siegel Decl., ¶ 12, p. 4:1-5, Ex. 6; Martinez Decl., ¶ 3. Debtor continued to have new art gallery openings and continued to sell paintings during the construction. Opp., Siegel Decl., ¶ 16. Also, the Opposition argues that Debtor's Objection, whether based on breach of contract, frustration of purpose or breach of covenant of quiet enjoyment, are barred by Section 8.8 of the lease. Opp., p. 6:18-23; and that Creditor was authorized to make the construction by the lease agreement and the City of Laguna Beach. Opp., p. 9:1-4, Siegel Decl., Ex. 1; p. 9:21-27, Siegel Decl., Ex. 5.

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**CONT... Edward Mark Bobinski**

**Chapter 7**

In addition, Creditor presented evidence that the parties agreed to a temporary reduction in monthly rent of \$223.33 and that Debtor understood that the construction needed to be done. Siegel Decl., ¶10, Ex. 4.

In summary, as Debtor has failed to come forward with sufficient evidence to disallow the Claim in its entirety on the basis of breach of contract or frustration of the contract, the burden does not shift to Creditor to prove the validity of the claim by preponderance of evidence. Moreover, Creditor's Opposition sets forth strong evidence in support of its claim.

The court declines to address Creditor's request for attorneys fees as the claim objected to does not include such fees.

<b>Party Information</b>
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**Debtor(s):**

Edward Mark Bobinski

Represented By  
William B Skinner

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:16-14950 David Limas Martinez**

**Chapter 7**

**#31.00** Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
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**Debtor(s):**

David Limas Martinez

Represented By  
Christopher P Walker

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Hearing Room**

**5A**

10:30 AM

**8:17-10405 Karime Farhat**

**Chapter 7**

**#32.00** Hearing RE: Motion of U.S. Trustee for Order Reopening Chapter 7 Case Pursuant to 11 U.S.C. Section 350(b), and Directing the U.S. Trustee to Reappoint a Chapter 7 Trustee

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant motion

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
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**Debtor(s):**

Karime Farhat

Represented By  
Gary Leibowitz

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 03, 2017**

**Hearing Room**

**5A**

10:30 AM

**8:17-10989 Agustin Lima**

**Chapter 7**

**#33.00** Hearing RE: U.S. Trustee's Motion to Dismiss Chapter 7 Case with 180-Day Bar to Refiling Pursuant to 11 U.S.C. Sections 707(b)(3)(A), 105(a), 109(g), and 349

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Grant motion

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified***

<b>Party Information</b>
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**Debtor(s):**

Agustin Lima

Represented By  
Alla Tenina

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 03, 2017**

**Hearing Room 5A**

10:30 AM

**8:17-11143 Mark A. De Grasse**

**Chapter 13**

**#34.00** Hearing RE: Debtor's Objection to Pacific Union Financial, LLC's Proof of Claim #1-1

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 3, 2017**

Based upon the Opposition filed by Pacific Union, the court is inclined to allow the claim in large part. However, further explanation is required re the calculation of projected escrow shortages of \$8,050.60 and why such *projected* shortages must be paid now. Also projected over what period of time?

<b>Party Information</b>
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**Debtor(s):**

Mark A. De Grasse

Represented By  
Bryn C Deb

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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Santa Ana  
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**Thursday, August 03, 2017**

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**5A**

10:30 AM

**8:17-12567 Mark Edward Stacey**

**Chapter 7**

**#35.00** Hearing RE: ORDER to show cause re dismissal for failure to comply with Rule 1006(B) -installments (\$100.00 Fee Installment Payment Due 7/3/2017) (OSC ISSUED 7/5/2017)

Docket 11

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case for Failure to File Schedules, Statements, and/or Plan Entered 7/14/2017**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules, Statements, and/or Plan Entered 7/14/2017 - td (7/14/2017)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Mark Edward Stacey

Pro Se

**Trustee(s):**

Richard A Marshack (TR)

Pro Se